

Prepared Remarks of U.S. Attorney Preet Bharara
Public Corruption in New York: More than a Prosecutor's Problem
Citizens Crime Commission
April 22, 2013

I want to thank Richard Aborn and the Citizens Crime Commission for inviting me and for organizing events like this.

Before I get started, please silence your cell phones and body wires, as the case may be.

Why am I here this morning and why am I talking about this?

Because public corruption in New York, from all the available evidence, appears pervasive and because it is more than a prosecutor's problem.

Recent and not-so-recent events paint a fairly dismal portrait of the state of government in the State of New York.

It is a portrait of a show-me-the-money culture, as I have said before.

It increasingly seems that the best way to find Albany on a map is to look for the intersection of greed and ambition.

So is corruption in New York rampant and is it worse than elsewhere? All the available evidence says that the answer, sadly, is yes.

Given recent events, I am reminded of a great and funny science fiction book I read when I was a kid—The Restaurant at the End of the Universe, by Douglas Adams. It describes an alien warrior species known as Vogons. In chapter two, the author describes a particular Vagon captain:

“It has been said that Vogons are not above a little bribery and corruption in the same way that the sea is not above the clouds. . . . When [this Vagon captain] heard the words ‘integrity’ or ‘moral rectitude,’ he reached for his dictionary, and when he heard the chink of ready money in large quantities he reached for the rule book and threw it away.”

Sound familiar?

So, is Albany full of Vogons? Of course not.

To be sure, there are countless honorable and ethical and honest people serving in elected office—people who believe that representing ordinary Americans is a high calling, a calling to improve one's community and one's country in some small measure.

But I don't think anyone can disagree with the conclusion that the ranks of those convicted in office have swelled to unacceptable levels.

Consider the list of defendants convicted by just our Office in recent years.

It is the kind of roll call that causes frustrated prosecutors to wonder, from time to time, whether our most corrupt public officials are even capable of being deterred from committing crimes:

- Senator Carl Kruger
- Senator Hiram Monseratte
- Senator Nicholas Spano
- Senator Vincent Leibell
- Senator Efrain Gonzalez
- Assemblyman Brian McLaughlin
- Assemblyman Anthony Seminerio
- Councilman Larry Seabrook
- Councilman Miguel Martinez
- Councilwoman Sandy Annabi

And that does not count the plethora of pending cases that are still playing out in federal court in the Southern District.

Nor does it count the significant public corruption cases brought by other prosecutor's offices around the state.

Consider also the breadth and diversity of the officials caught up in our corruption probes:

- They have been State Senators as well as State Assemblyman.
- Elected officials as well as party leaders.
- City council members as well as town mayors.
- Democrats as well as Republicans.
- In an age often decied for increasingly bitter partisanship, we can say that public corruption in New York is a bipartisan affair.

Or, consider what some recent arrested politicians have been caught on tape allegedly saying about the pervasiveness of a corrupt mindset:

- One Assemblyman allegedly said this, talking about his Albany colleagues: “Bottom line. . . if half of the people up here in Albany was ever caught for what they do...they...would probably be [in jail], so who are they BS-ing?”
- A city councilman allegedly said this: “That’s politics, that’s politics, it’s all about how much...and that’s our politicians in New York, they’re all like that, all like that. And they get like that because of the drive that the money does for everything else. You can’t do anything without the f***ing money.”

What’s more, the examples of tawdry graft spelled out in recent complaints and indictments evince both a casualness and a cockiness about corruption in New York in 2013—and suggest, dispiritingly, that not a lot has changed.

Some of the allegations have a positively retro feel to them.

Take, for example, a recent case where officials first met at Sparks Steakhouse on Valentine’s Day of this year and then retired to parked vehicles to exchange envelopes of cash in connection with a bribery scheme.

It makes you want to ask, with some frustration: “What is this? The eighties?” Have we not progressed at all?

Now, one of the most commonly asked questions about public corruption is: Why? Why do we have this problem, however extensive one thinks it is? Why do officials who are supposed to hold the public trust and who are supposed to know better keep breaking the law—even knowing what the consequences will be?

I’m not a behavioral psychologist or a political pundit or a social scientist, so I don’t really know the answer. The answer may not be knowable, and probably there is no single answer, even if it were knowable.

I suppose it is some combination of hubris and greed and ambition on the part of corrupt and corruptible officials.

I suppose, also, that there are temptations in the system, weaknesses in oversight, and gaping holes in transparency.

But at the end of the day, it seems that a culture of corruption has developed and grown, just like barnacles on a boat bottom.

And it seems that such a culture has become so embedded that even a series of tough and successful prosecutions that have separated so many lawmakers from their liberty has not been enough to thwart others from following in their felonious footsteps.

And just as with barnacles on a boat bottom, when a growth is permitted to spread and grow unchecked, it unsurprisingly takes an unrelenting, collective effort to clean up.

And so after such a disheartening spate of scandals, it is heartening to see that many people are beginning to take the problem more seriously than perhaps they have until now.

And that is good because state lawmakers matter.

State legislators, believe it or not, are important.

Each senator represents more than 300,000 people; each assemblyman, almost 130,000.

Senators confirm appointments of state officials and court judges.

State lawmakers determine our budget. They decide how much money goes to children's education, to public safety, to transportation, to health, and to public welfare. They decide what constitutes a crime and how it should be punished. And they draw the boundaries of the electoral districts in which you live, work, and vote.

So it is dispiriting that the public's increasing sense of disillusionment with their government has reached unprecedented proportions.

A Quinnipiac poll from just a week ago found that 87 percent of New Yorkers said that corruption in the state is a "somewhat serious" or "very serious" problem. Eighty-seven percent.

And the percentage of those saying it is a "very serious" problem is the highest mark since Quinnipiac began asking the question ten years ago.

But perhaps it should not be all that shocking that so many people have lost so much faith.

When a New York state senator is more likely to be arrested by the authorities than defeated in an election, people lose faith.

When voters' campaign contributions can routinely foot the bill for a fancy lawyer when that legislator is later charged with corruption, people lose faith.

When state senators are advised by the majority leader's counsel—in writing!—to hand deliver their financial disclosure forms to avoid federal mail fraud charges, people lose faith.

When a state legislator can be convicted of corruption crimes and still keep his life-long pension, people lose faith.

Such a dynamic gives new meaning to what Michael Kinsley once said: “The scandal isn’t what’s illegal; the scandal is what’s legal.”

So let's just pause for a moment to see if we have this straight: In New York, a politician can figure out a way to buy his way onto a ballot and into the legislature; upon election, he can turn around and sell that very office to the highest bidder for favorable votes; upon indictment, he can use former supporters' campaign contributions to fight the criminal charges; upon conviction, he can be forced out of office and imprisoned for years.

But he will retain for life a generous state pension—paid for by whom? The taxpayer. And that right is enshrined where? In the state constitution. And that is written by whom? The legislature.

Now, does anyone who is not drunk on power or addicted to self-dealing think this is remotely rational?

Just so we're clear, I, of course, have no formal opinion on this. I'm just sayin'.

Now, we all have a role in addressing this problem.

Prosecutors, of course, have an important role.

Before getting to that, let me say a few things about our overall approach to public corruption.

First, let me make clear what our mission is not about:

We are not trying to criminalize ordinary politics.

We are not trying to wag our fingers or thump our chests.

Nor, quite frankly, are we even demanding that our government officials be virtuous or vice-free.

We are prosecutors, not morality cops.

We simply want people in high office to stop violating the law. It seems like a simple and modest request—people elected to make laws should not break them.

Prosecuting public corruption, for the most part, is like prosecuting every other type of crime. As with every other area, we are fundamentally fearless and appropriately aggressive. We go wherever the facts and the law take us.

But there are at least two considerations that are perhaps special to public corruption cases.

First, corruption investigations are especially sensitive—among the most sensitive that any prosecutor can conduct.

For that reason, we take great care to make sure that we are as cautious and discreet as we can possibly be when conducting investigations of public officials.

We would be doing a public disservice if we were to unnecessarily cause reputational harm to someone who was duly elected or appointed to high office.

But that said, we have an obligation to investigate vigorously all criminal misconduct no matter where it may be happening and no matter who may be responsible.

No one is above the law, no matter how wealthy or important, and no matter how many votes he or she may have garnered in the last election.

Where there is smoke, there is often fire—that conclusion has become irrefutable over the last few years. And we are duty-bound to go where the smoke is.

Second, we have a fierce dedication to political neutrality and independence—bedrock principles that are particularly important in how we go about handling corruption cases.

Every prosecutor's office must guard its independence—from politics and from partisanship and from undue pressure, whether from the public or from Washington.

The U.S. Attorney's Office for the Southern District of New York has an especially long and proud tradition of absolute independence.

After all, we were founded in 1789; we have prosecuted some of the most storied cases in the history of the nation; and we have shown time and again that no individual or institution is beyond the law's reach.

There is a reason we are known as the Sovereign District of New York. And while some may view that as a pejorative, we view it as a badge of honor, and it confers particular legitimacy on our public corruption investigations.

For my own part, before I became the U.S. Attorney, while I was a counsel to the Senate Judiciary Committee, I spent close to a year leading the investigation into politicization at the Justice Department.

And so I know first-hand what can happen to public trust when even a whiff of politics or political ideology enters into prosecutorial thinking.

As a friend of mine once remarked, there are three political parties—Republican, Democrat, and federal prosecutor.

Now, before I say more about the prosecutor's role, let me point out that a portion of our anti-corruption team is here this morning.

Seated are the Deputy U.S. Attorney Richard Zabel, Criminal Division Chief Lorin Reisner, Public Corruption Chief Brendan McGuire and a number of corruption Assistant U.S. Attorneys.

I get to make speeches from time to time, but these are the career prosecutors who do all the work and deserve all the credit.

These are the career prosecutors who have shone such a bright line on the corruption problem in Albany and elsewhere.

So, what is our strategy for, and our role in, fighting corruption?

It's a very simple one.

We bring criminal cases. And we will bring any case that we can prove beyond a reasonable doubt to a unanimous jury.

But a couple of updates.

First, given the unmistakable pervasiveness of corruption, we are redoubling our efforts and will seek to be even more aggressive than in the past, and you have seen some of the fruits of that resolve in recent weeks.

So what does that commitment mean?

It means being as aggressive and proactive on public corruption as we are on gangs and drugs and organized crime and insider trading and everything else—because whenever corruption is on the rise, that means democracy is on the decline.

And that means that law enforcement will use every aggressive and creative tool at our disposal—wiretaps and confidential informants and undercover agents and stings. And, yes, seeking the cooperation of elected officials who can help us investigate and prosecute their own corrupt colleagues.

It means, also, adding resources to the fight. In the last 18 months, we have added people to our public corruption unit so that we can be more effective.

In addition, I have recently met with the Assistant Director in Charge of the FBI, George Venizelos, to discuss expanding our corruption efforts. And I can tell you that he shares my view that corruption should be an absolute top priority for federal law enforcement in New York. We will also continue to work with the fine men and women of the Department of Investigation, led by Commissioner Rose Gill Hearn, who has been one of the pioneers in fighting corruption.

We also met recently with leaders of watchdog groups to see if there are other ways we can be effective.

Our goal is to change the calculus of even the most dense public official—so that he or she will finally realize that the reward for violating the oath of office is not reelection, but prison.

Now, of course, there are other excellent prosecutor's offices throughout New York State, both local and federal.

And I agree with the proposition that we could use even more cops on the beat. God knows, there is no shortage of public corruption work.

But no matter how many cops on the beat, I think the feds will always be natural leaders on corruption matters.

Federal prosecutors are natural leaders in this area because (1) we generally have deeper resources (to introduce undercovers, mount stings, and pay controlled bribes, among other things); (2) we have a track record of success; (3) we can usually threaten more substantial penalties; and (4) as I already mentioned, we have a generations-old tradition and reputation for absolute independence and nonpartisanship.

But we welcome more cops to the beat, and in fact have been collaborating with local offices for a long while—our recent work with DA Robert Johnson of the Bronx and DA Thomas Zugibe of Rockland, I think, serve as state-wide models for cooperation. And I hope we build on that model.

So, we prosecutors will keep doing our jobs—aggressively and collaboratively. And if that means locking up more corrupt officials, so be it.

But we cannot just prosecute our way to cleaner government, and in any event we face a number of challenges even in our law enforcement efforts. Let me mention just a couple.

First, there is a substantial transparency problem throughout New York government.

You may remember our successful CityTime investigation, in which we partnered with Commissioner Hearn and DOI—that was the case in which a government contractor, SAIC, bilked the city for about half a billion dollars for a timekeeping software program.

As that investigation revealed, disclosure requirements, when not sufficiently rigorous, can provide a false sense of security and the illusion of transparency. Currently, only prime contractors and first-tier subcontractors doing work for the City file financial disclosures.

So apparently all you have to do to conceal a fraud and deceive the City is set up a sham second-tier subcontractor. In CityTime, that approach resulted in the City being victimized year after year to the tune of more than half a billion dollars.

Fortunately, as a result of our case against the prime contractor, the City has been made whole. But that may not happen next time. That is something to think about.

One more point on this—the creation of databases and websites which make certain information about government officials public, which seem to promote transparency and are unveiled to great fanfare are a step toward true transparency but by themselves are not enough.

A database that is accessible only by physically going to a city office building to access through an outdated computer portal does not accomplish its intended purpose.

A government website that is so difficult to navigate that it is nearly impossible to piece together any real-life understanding of the information it purports to convey or that offers millions of rows of data but without any context or meaningful ability to conduct analysis is not that much more helpful than keeping the information locked away in a filing cabinet.

We should perhaps hold our applause for certain transparency measures until we've scrutinized whether they truly reveal anything about the workings or behavior of government and public officials.

A related transparency challenge is the difficulty of being able to separate illicit money transfers from legitimate ones.

We believe in the old adage: Follow the money.

But that is so much harder to do when the money trails are hidden. When every state or local elected official is able to lawfully moonlight as a lawyer or accountant or consultant and may lawfully withhold deep details of that work, prosecutors face substantial challenges.

Again, I don't have a formal view on these things. I'm just sayin'.

And there are challenges beyond transparency problems as well.

As I mentioned recently, perhaps most disheartening is the deafening silence of the many individuals who, over the course of this investigation (and others), saw something and said nothing. They learned of suspicious and potentially criminal activity being conducted in the halls of the Capitol and elsewhere, and they said nothing. No one made a call. No one blew the whistle. No one sounded the alarm.

As I keep saying, corruption is more than a prosecutor's problem, and everyone with a stake has to be part of the solution. That means the politicians, the press, and the public have a vital role to play also.

First, the role of politicians, of lawmakers.

Apart from refraining from breaking the law, the single most important thing they can do to restore public trust is to act seriously and earnestly to reform the system and the culture of our government and our politics.

There have been a lot of proposals offered in recent days, and every New Yorker should applaud the effort. And we prosecutors applaud any effort that makes our jobs easier.

The proposals are wide-ranging—there are measures to limit contributions, to limit spending, to limit terms, to limit discretionary funds. There are measures to repeal certain laws and mandate more transparency and compel the reporting of crime.

I am not in a position to offer opinions on particular proposals—but I do agree with those who say no single fix will get us far down the road to reform. And nothing will really change until people undertake a fundamental reform of a corrupt culture.

After all, notwithstanding all the challenges I mentioned, every single one of the cases that my office has brought was possible under existing authorities and existing resources.

But it makes sense for everything to be on the table in terms of proposals.

And I will say one more thing: speaking as not just a prosecutor but also as a citizen of the state, New Yorkers should not settle for something weak when there is an appetite and an opportunity for something strong.

Now, what about the Fourth Estate? Does the press have a role?

Absolutely.

The press is often in the best position to investigate, and shine a light on, corrupt officials and corrupt practices.

My chief lament about the decline of the local newspaper is that with each outlet that closes, opportunities to ferret out fraud and public waste and abuse are lost.

Just as we and the FBI are adding resources to fight public corruption, if you run a newsroom, I would hope you would think of adding reporters and resources to the investigative side of the business. I bet it's as fun a beat as a reporter can have.

So all of you press folks back there, tell your editors I said that.

Rather than just covering cases that my office and others are already bringing, figure out ways to break new ground, to cover new stories.

Groundbreaking corruption coverage, by the way, is not just good copy; it is a path to good government.

Finally, what about the public? That is where the solution really lies.

People need to demand more. It is not enough just to be fed-up.

After all, as Edward R. Murrow observed, “A nation of sheep will beget a government of wolves.”

The public has to demand more—individual voters acting and speaking collectively.

New York tends to have the best of everything, and it deserves better in this area also.

New York is home to the safest large city in America; it should not harbor one of the most corrupt governments in the nation.

New York is full of the best problem-solvers anywhere.

And no state has people who are more thoughtful, more industrious, more resilient, more demanding, and more impatient than New York.

And if there were ever a time for New Yorkers to show their trademark impatience with the status quo and to show it loudly, it is now.

Thank you.